

November 7, 2018

Henry Leskinen  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, MD 21057

Re: Vincent Estates, White Marsh  
Forest Buffer Variance  
Tracking # 06-18-2808

Dear Mr. Leskinen:

Baltimore County Department of Environmental Protection and Sustainability (EPS) received the above referenced request for a variance to the Baltimore County Code, Article 3 Environmental Protection and Sustainability, Title 3 Protection of Water Quality, Streams, Wetlands and Floodplains (i.e. Forest Buffer Law) on September 17, 2018. If granted, the variance would allow the permanent impact of 9,550 square feet of forest buffer, including 2,285 square feet of nontidal wetlands to allow development of a nineteen lot residential subdivision and associated infrastructure. The property owner proposes to purchase 9,550 square feet of credit in a forest buffer mitigation bank to mitigate for the water quality impacts associated with the proposed variance.

The wetland which is the subject of this variance was created when White Marsh Boulevard was extended during the early to mid 2000's. The Maryland State Highway Administration (SHA) used the area associated with the wetland as a staging area during construction of the highway. When the SHA completed construction, they re-graded the site and left a depression which developed wetland characteristics. The resulting wetland is small in size, isolated from other streams and wetlands and of poor quality and functionality. The Maryland Department of the Environment assessed this depression and decided not to regulate it because it failed to meet their wetland criteria. Our office has concluded that the depression does possess the hydrology, soils, and vegetation to make it a wetland and will regulate the resource.

The property owner can develop this property with this wetland and the associated 25-foot buffer. The location and isolated nature of the wetland would result in a small Forest Buffer Easement (FBE) in the rear of one of the nineteen lots. Easements of this size and location are highly susceptible to encroachment and result in easement violations. Therefore, full application of the Forest Buffer Law would result in the creation of a small FBE to protect a man-induced wetland of limited value that has the potential to generate ongoing enforcement actions. The potential for ongoing enforcement actions for a wetland of limited value poses an unreasonable

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hardship for the property owner. Consequently, this Department finds that an unreasonable hardship exists in fully meeting the Forest Buffer Law.

The property owner proposes minimizing their impact on water quality by installing multiple storm water quality best management practices on site. In addition, the property owner will mitigate for the removal of the wetland and 25-foot buffer on a 1:1 ratio by purchasing 9,550 square feet of credit in a forest buffer mitigation bank. Due to the size, location, and method of establishment, the wetland proposed for removal with this variance is of little value from a water quality perspective. Also, there is no forest or woody vegetation associated with this wetland that would enhance its water quality value.

Based upon our review and in accordance with Article 33-3-106 and Article 33-3-112(c) of the Baltimore County Code, the variance request is hereby granted with the following conditions:

1. The property owner shall mitigate for the 9,550 square feet of permanent impact to the forest buffer, including 2,285 square-feet of nontidal wetlands by purchasing 9,550 square feet of credit in a forest buffer mitigation bank prior to permit issuance.
2. A Forest Buffer Protection Plan (FBPP) detailing the mitigation must be submitted to Environmental Impact Review for review and approval by December 15, 2018.
3. The following note must appear on all plans and plats submitted for this project:

“A variance from the Law for the Protection of Water Quality, Streams, Wetlands, and Floodplains was granted by the Baltimore County EPS on November 7, 2018. This variance allowed permanent impact to 9,550 square feet of forest buffer, including 2,285 square feet of nontidal wetlands for the construction of a nineteen lot residential subdivision. Conditions were placed on this approval to reduce water quality impacts including the purchase of 9,550 square feet of credit in a forest buffer mitigation bank.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of this project.

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If you have any questions regarding this correspondence, please call Mr. Gris Batchelder at (410) 887-3980.

Sincerely,

David V. Lykens  
Deputy Director

DVL/cgb

cc: Mr. John Motsco, Little and Associates, Inc.

I/we agree to the above conditions to bring my/our property into compliance with Law for the Protection of Water Quality, Streams, Wetlands, and Floodplains.

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Property Owners

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Date

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Printed Names